

The Albemarle-Pamlico Estuarine Study  
Citizens' Advisory Committee Meeting  
Washington, NC  
December 8, 1992

MINUTES

**Welcome, Approval of Minutes, and Changes to Agenda**

The meeting was called to order by PCAC Vice Chair, Ernie Larkin. (See Attachment A, Attendance list). There were no changes to the minutes of the previous Citizens' Advisory Committee meeting (October 10, 1992), nor were there any proposed changes to the agenda (see Attachments B and C, respectively).

**Program Report**

Randy Waite, Program Director, introduced guests Bo Crum, Co-Chair of the APES Technical Committee, and Ted Bisterfeld, APES Project Officer, both from EPA Region IV in Atlanta. He also introduced Guy Stefanski, a new APES technical staff member.

An "Action Alert" (see Attachment D), from the Commonwealth of Massachusetts that mentioned a potential 30% cut in EPA funding for the National Estuarine Program (NEP), was distributed. Mr. Waite reported that this cut had the potential of decreasing APES' funding from \$300,000 to \$210,000 for FY '93-'94. This figure reflects base program funding and does not include implementation monies.

Concerning outstanding research reports, Randy Waite stated that draft reports are currently in review from Randy Dodd and Pat Cunningham. These deal with sub-basin GIS data layers and toxic analyses.

Still outstanding are reports from Will Ambrose, JoAnn Burkholder, Stan Riggs, Roger Rulifson and Randy Dodd. It was felt that the availability of these completed works would help lend support to suggestions made in the management plan, and would round out the APES scope of work.

**Changes in the CCMP**

It was reported that an economic analysis (see Attachment E) characterizing the financial impacts and benefits of the proposed CCMP management recommendations, had been funded. The research is being done through Resource Analytics.

Also participating in the APES program is Melany Earnhardt who has been hired to perform a legal analysis of specific management strategies. She will be working very closely with the Attorney General's Office.

Mr. Waite continued reporting that changes to the CCMP included specific listings of

environmental benefits, implementation strategies (the "who" and "how" considerations), timeframes, implementation costs and any new or additional research needing to be undertaken to make each management strategy work.

He ended by stating that clarifying language had been added to reflect concerns voiced in the September Public Meetings and through letters written to staff about the plan.

## CCMP DISCUSSION

### Human Environment

Meg Scully noted that additional format changes to the CCMP included the addition of a glossary, the citing of more data, the definition of more terms, and the plan for including a bibliography in the next public draft.

Ms. Scully began discussion of the Human Environment section by listing four major points that changed from the previous public draft. The first change was moving background information pertaining to the user groups of the A/P system to the Introduction Chapter. The intention in doing this was to give readers more information before the actual action plans were explained. She added that the discussion of economic value for each action had been expanded.

The second change entailed **Management Action Number 4--Cooperative Planning** in the first Public Draft. This is no longer being presented as a separate heading. The heading was deleted but the text was relocated to other management action plans in the Human Environment Plan.

The third change concerned **Management Action D-- Public Access Program**. This action item was currently listed as "for the ocean and estuarine shoreline." Ms. Scully added the recommended wording for the next draft would be "for the ocean, estuarine, riparian or all public water areas" so that the recommendation would be consistent with the Division of Coastal Management's Public Access Program.

And lastly, the fourth change referred to the **First Management Action- Local Planning**. She said that this had been the subject of APES legal analysis (see Attachment F). Referring to the action item, Ms. Scully reported that a new planning program, dealing only with A/P counties could be considered unconstitutional unless a rational basis for selective legislation for the region was determined. Discussion ensued with a recommendation being made to put several options for developing legislation, to require planning, in the A/P region in the CCMP.

### Vital Areas

Meg Scully began discussion by bringing attention to the new title, "**Wetlands Stewardship Program**", for **Management Action D**. She stated that the purpose of this program, i.e. stewardship as opposed to regulation, had been more clearly defined. A consideration (currently under investigation by DEM) entailing potential development of a joint permit program between DEM and the Corps of Engineers had been added. This joint permit program would be similar to the joint general permit review that DEM and CAMA have in place.

Ms. Scully then solicited discussion from CAC members about deleting the headings of **Management Actions G and H** and incorporating those actions (**H**) under the Public Involvement and Education Section and (**G**) under the Monitoring Section. Yates Barber suggested that current regulatory agencies need additional staff (both enforcement and technical staff).

Dick Leach suggested the addition of an action that would result in withholding state funding from any project that might impact any jurisdictional wetlands. Both highways and AECs will be included in this action. Randy mentioned that any project that would negatively impact the environment should not have been issued a permit to begin with.

### Water Quality

The Water Quality Action Plan (see Attachment G) was distributed with the explanation that no changes were made to the original 24 page introduction section. Seven changes were introduced for comment by Randy Waite: **(1) Action Strategy B** (antidegradation, page 28). It was noted that DEM was revising their implementation standards. To date there was no recommendation in the CCMP. Yates Barber suggested that a recommendation for implementation of the antidegradation clause, to the fullest possible extent, be added to the CCMP. After protracted discussion during which Randy Waite stressed that, according to EPA, degradation is allowed as long as each increment of decrease can be shown for important economic and social development, Mr. Barber suggested drafting a statement backing an antidegradation clause that called for maximum best technology treatment, with an allocation that provides a wide margin of safety (such as 25% above the maximum allowable amount). Randy Waite requested specific, clearly defined wording for the CCMP that would effectively express concern for cleaner waters. Derb Carter restated the concern as the recommendation that allocation not reach 100% of the assimilative capacity of receiving waters-- that a 25% "buffer zone" be maintained before maximum allowable degradation is reached. Tier 1 cut-off would then become 75%.

Yates Barber recommended making more eligible bodies of water classified as "Outstanding Resource Waters".

**2) Recommendation 4--Development of State Policy** (tightening marina siting) was changed based on comments received during the public meetings and from letters received. Conversations with DEM and DCM revealed the need for establishing a marina siting policy. Kristin Rowles commented that the planning section of DEM had been investigating establishing a pro-active marina-site plan.

In response to a question about the inclusion of "live aboard" boats in the marina issue, Kristin Rowles stated that, while federal policy does address the issue, enforcement is extremely difficult.

**(3) Septic Systems** --have been addressed. A report due by Susie Little of the Research Triangle Institute, looks at groundwater flows into the system-- nitrate concentration in those flows and the system comprised of an estimated 70% of ground water.

Carolyn Hess asked if adding the failure rate of current alternate systems to the CCMP would be of interest to public officials. Randy Waite said that new alternative systems (e.g. low pressure systems) are rectifying those problems. Carolyn Hess recommended education for users of septic systems to make them aware of the care necessary after system installation.

Mike Wicker cautioned against unequivocally linking septic systems with negative water quality. He stated that these systems, appropriately sited and maintained, could be an effective means of protecting water quality. Yates Barber advocated that any zoning plans in the CCMP should contain consideration of soil types and adaptability to septic systems.

**(4) Buffer Strips**-- The Technical Committee had voted, by a close margin, to strike the phrase "or functional equivalent" from the buffer strip recommendation. In response to public questions, clarification of the lands that will be affected had been added (based upon some of Virginia's buffer strip language).

**(5)** A "grandfather" clause for existing land uses was added to the Buffer Strip recommendation. New ground disturbing practices, including tilling, would be subject to the buffer requirement.

**(6)** Another addition was a recommendation to EPA to help with water quality standards science.

**(7)** The "notice of intent" recommendation for logging had been changed to reflect the intention of the notice, that is, for educational purposes only. A recommendation had been made by the TC to omit **Option P-- Special Orders of Consent (SOCs)** because of lack of a specific recommendation beyond any current regulations.

Randy Waite announced that there were no changes made to the Monitoring Plan.

### Fisheries

Kristin Rowles announced that there were some changes to the background material. The biggest change was the addition of fresh water species to the plan. The most significant change in the management actions was **Option A--Fishery Management Plans**. The issue of limiting entry or controlling effort had been brought under this option. Specific recommendations dealing with staffing and the funding of an education program within the Division of Marine Fisheries were also added. **Option G-- Diseases and Kills**, had been reworded to focus on the causes of kills and diseases rather than the creation of a data base. For the next draft, specific economic information will be added for some management actions. **Option J-- Cost Share Program**-- in addition it was stated that a legal analysis of the Cost-Share Recommendation for Best Fishing Practices had allowed for the addition of more specific implementation suggestions.

### Public Involvement and Education (PIE)

Joan Giordano began discussion of this plan by announcing that **Management Actions A and B** had been consolidated to reflect effort by the Department of Public Instruction (DPI) in rewriting the North Carolina science education curriculum.

Carolyn Hess commented that elementary school teachers had been enthusiastic about the possible incorporation of APES materials and information on the estuary into their classroom presentations, but felt that there was not adequate time to do so considering existing environmental programs. She proposed the CCMP PIE Plan contain a recommendation for encouraging an emphasis on local environments in the schools in the A/P region.

At the conclusion of Joan Giordano's presentation, Randy Waite mentioned that there were no changes to the other sections of the CCMP. He added that a presentation of the responsible parties for each recommendation had been added as an appendix.

#### **New Business/ Public Comment**

Randy Waite announced that because of the change in administrations, Dr. Ernie Carl and Sec. Bill Cobey would no longer serve on APES Committees.

In other business a recommendation was made to write a letter to all local governments to ensure that they were aware of the CCMP.

It was anticipated that the Second Public Draft of the CCMP would be distributed at the end of December, 1992.

After discussion concerning the scheduling of one of the Public Meetings (on Monday, January 18th) Martin Luther King Day and a State holiday, the decision was made to reschedule the Public Meetings for Tuesday, January 19th in Manteo; Wednesday, January 20th in Morehead City; and Thursday, January 21st in Raleigh.

#### **Vote on CCMP Recommendation**

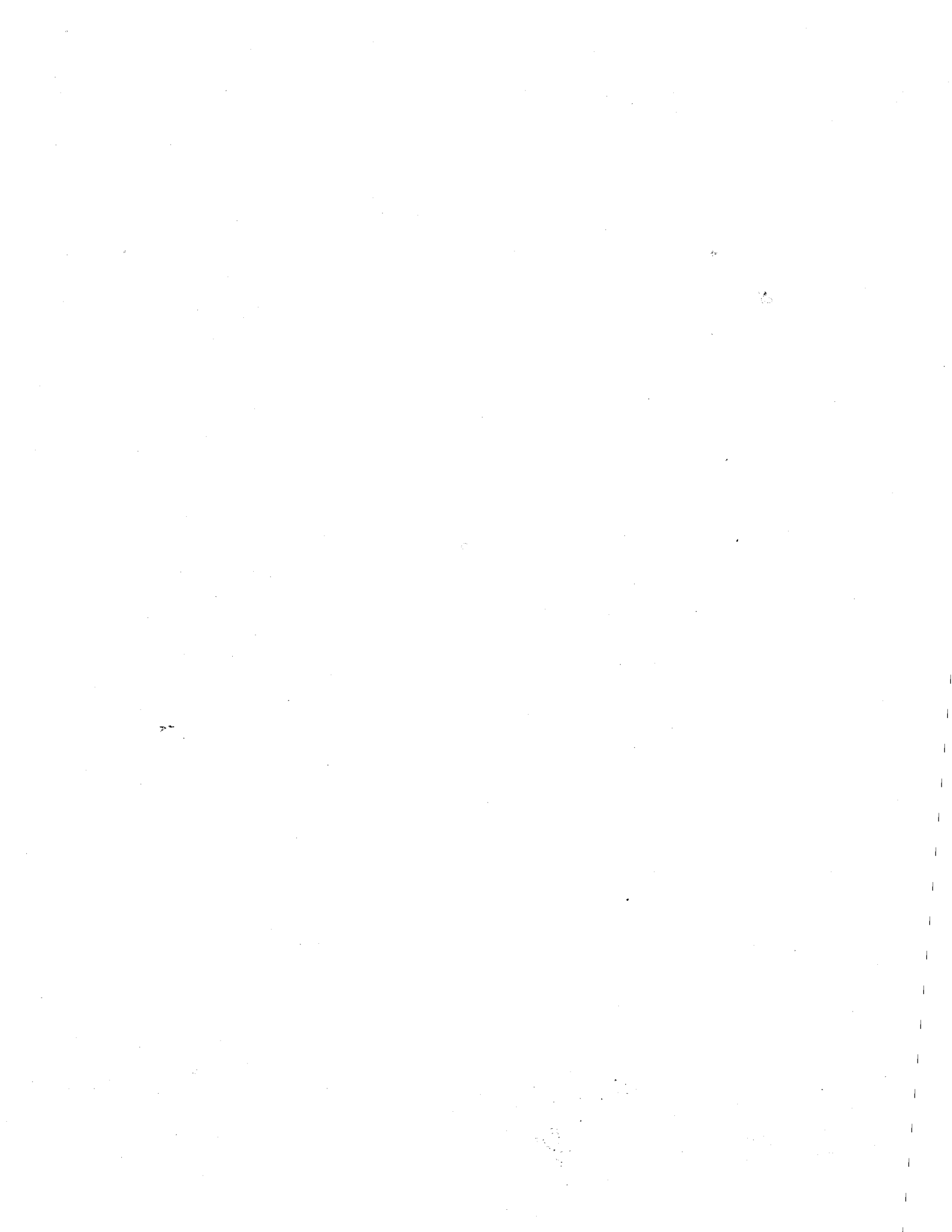
Dick Leach proposed that the Policy Committee take up the CAC's comments and concerns considering the issues discussed that evening, the proposed wording changes, the question of antidegradation and the inclusion of moorings and live-aboards at their next meeting.

#### **Adjourn**

There being no further business, the meeting was adjourned at 10:45 p.m.

#### **NOTE:**

The next CAC meeting will be held on February 17, 1993 as part of the APES Roundtable meeting. Please refer to the memo sent to you on February 4th by Guy Stefanski detailing the agenda. The meeting is being held at the Ramada Inn, on Greenville Blvd., in Greenville and begins at 7:00 p.m.



**APES  
JOINT CITIZENS' ADVISORY COMMITTEE  
MEETING  
PCAC/ACAC  
WASHINGTON REGIONAL OFFICE  
12/08/92**

<u>NAME</u>	<u>AFFILIATION</u>
Don Giordano	APES
Kristin Rowles	APES
Randy Waite	APES
Tom Stroud	APES
Phil McMullan	APES - CAC - ALB
Paul Lilly	APES - CAC - ALB
Vince Bellis	PAC
Dick Leach	PCAC
WESB FULLER	APES CAC - ALB
Yates Barber	APES All. CAC
JOHN T. SPALNOLO	PCAC
Ann Carter	PCAC
Margaret Scully	A.P.E.S.
Carol Hess	ACAC
Mary Walter Rumbley	APES
Bob Herrmann	Weyerhaeuser, NB
Tim Latham	Citizen
Milo Wicker	USFWS - Raleigh
John Ellis	USFWS - Raleigh
Ted Bisterfeld	EPA ATLANTA
Bo Crum	EPA - Atlanta
JOHN M. CARLOCK	HRPDC
Joe WRIGHT	ACAC

Ernie Farlin

P-CAC

Miss Vee Land

~~Albemarle~~ CAC

Terry Pratt

Albemarle CAC

Debb Carter

PCAC

Russell C. White

APEC



ATTACHMENT B

The Albemarle-Pamlico Estuarine Study  
Citizens' Advisory Committee Meeting  
Manteo, NC  
October 10, 1992

MINUTES

**Welcome and Approval of Minutes**

The meeting was called to order at 10:00 a.m. by Pamlico Citizens' Advisory Committee Chair, Derb Carter. Attendance list (see Attachment A). There were no proposed changes to the minutes of the last Citizens' Advisory Committee meeting, nor were there any proposed changes to the agenda. Agenda (see Attachment B).

**Public Meeting Comments**

Program Director, Mr. Randall Waite, stated that four public meetings relative to CCMP public input were held during the week of September 28--October 1, 1992. Two of those meetings were well attended, while the other two were more sparsely attended. The New Bern meeting had seventy-five people in attendance; Rocky Mount had fifteen; Elizabeth City had sixty-five; and Franklin, VA had ten. Mr. Waite felt that the meetings were successful and a good opportunity for public input. He explained that the meeting set up and format were changed after the first meeting (New Bern) to encourage dialogue with the audience and to discourage resemblance to Public Hearings.

**Committee Comments**

Mr. Waite opened with the revision of the CCMP. The revision will be based on public comments, comments from the committee members and any other comments received. A revised draft of the CCMP will be sent to committee members for review within 3--4 weeks. Mr. Waite continued stating that he would like to see a CAC meeting held in November in conjunction with the Policy Committee (PC) meeting so that the CACs can review the document, comment on the document and vote on it before the Policy Committee. After discussing the dates for this meeting at the Technical Committee Meeting, held October 9, 1992, it was recommended that the meeting be held Monday, November 23, 1992. Waite recommended that the TC meeting be during the day on the 23rd with the CAC meeting that evening followed by the PC meeting on the 24th.

Waite responded to Mr. Carter's question regarding the objective of the series of meetings by stating that the meetings were for the voting on the CCMP. All members were in agreement with the dates of 23 and 24 November.

Waite stated that the CCMP will be mailed out by 30 October, 1992 to the committee members.

**Proposed Changes**

Mr. Waite began the discussion of proposed CCMP changes on a general note stating that staff had heard many comments at the public meetings. People were mainly

concerned with the economic impacts of CCMP recommendations. Waite felt that this was a real concern and that it needed to be addressed. Waite also stated that one of the shortcomings of the Plan is that there is not a cost/benefit analysis required to engender discussion on what the economic impacts will be (i.e. effect on businesses and counties). He said he did not necessarily feel that these concerns should override environmental protection, but that the people had a right to know how it would affect them.

After a brief discussion of the above, Mr. Waite informed the committee that two resource economists will be joining the APES staff. Their responsibility will be to categorize the economic concerns and to address the cost/benefits. Waite was not sure how much information could be analyzed nor what could be accomplished in the short amount of time the economists had to accomplish their work.

Tom Stroud had concerns about whether the resource economists would consider the cost of non-regulation. The economists will mainly categorize and show what the benefits are and what needs to be looked into. If time permits, Mr. Waite will have them look into the non-regulatory versus regulatory aspect. Mr. Stroud mentioned if certain activities were not regulated, what would the impact be. Waite stated that this is one of the things that will be looked into by the economists.

Mr. Waite stated that the analysis will be for a period of six months, but staff will be receiving their information as it is received and fed into the process quickly. Mr. Waite made it known that time is essential. Waite also mentioned that APES is hiring personnel to do a legal analysis to state what can be done and how to go about accomplishing this from legal stand point.

Mr. Waite asked the staff to go into specifics about the proposed changes. Margaret Scully began by reviewing the Human Environment Action Plan and Vital Terrestrial Areas and Wetlands Action Plan. She began by discussing the background information, which she said is basically an overall introduction to the plans. The comments from the public meetings were considered. Throughout the CCMP the management actions were reorganized into a new structure with the following five categories: environmental benefits, implementation strategy, implementation costs, implementation timeline and considerations. All of the action plans needed further description, discussion, and clarification as far as all five categories were concerned. Discussions of the Vital Terrestrial Areas and Wetlands Action Plan have led to the clarification of the word acquisition to avoid misinterpretation as acquisition through condemnation.

Ms. Scully also mentioned that in two of the public meetings, in reference to the recommendation for the State Comprehensive Wetlands Program. Part of it was clarification of the recommendation of a new regulatory permit program to be implemented by the state, which we are not recommending. That was a real concern with the public. Ms. Scully stated that this was not meant as a recommendation, it was meant to be educational.

Kristin Rowles discussed the Fisheries Action Plan. She explained the changes which will occur. These changes consist of more emphasis on the environment benefits, the implementation timeline, and the implementation cost. Ms. Rowles

also stated that there will be more information about freshwater fish, particularly in the Albemarle region. The public comments were basically about over-regulation and fishermen are concerned about how the plan will affect them. They were interested in whether the plan would cause increased levels of regulation and therefore more cost to them. She added that fishermen stated concerns that only the Fishery section of the CCMP would be implemented, therefore, targeting only fishermen.

Ms. Rowles continued stating that there was some resistance expressed for the recreational saltwater fishing license. Recommendation regarding a cost share program for best fishery practices, such as bycatch reducing gear is included in the CCMP. Questions were raised about how that would be implemented, what fisheries would be targeted each year, and if there would be adequate funding to support all fishermen who would like access to cost share funds.

Ms. Rowles mentioned a discussion concerning the definition of submerged aquatic vegetation (SAV). There were questions about whether SAVs should be limited to native species that are targeted for protection or should be expanded to include other species.

Ms. Rowles ended her review by disclosing that there were comments about using oyster population as filters for nutrients. That will be a topic about which more information will be gathered.

Mr. Waite discussed the revision of Water Quality Action Plan. He stated that revisions will consist of justifying the benefits and detailing what will be gained from each recommended action. This decision was based on the resistance received concerning these actions. The subject of Antidegradation Clause of the State Water Quality Standards needs more research to see if it really addresses what is stated in the plan.

Bill Piland expressed a concern regarding the subject of cost not being addressed in the study. He thought that cost should be evaluated with regard to the benefits of different alternatives, and that an attempt to quantify them should be made even though it could cause political ramifications. Piland believes that if cost is not evaluated, only those topics most politically expedient and easiest to implement will be done. Piland stated that his main concern was where this effort should be targeted.

Mr. Waite felt that the cost share programs that are being recommended are fairly well received.

On the subject of strengthening compliance with Special Orders by Consent (SOC), Waite stated that the staff is not positive what action needs to be taken. The problem with SOCs lies within areas such as schools where the lack of funds to build treatment plants is common. Because schools, for example, cannot be shut down, the permits are still being violated.

Joan Giordano discussed the Public Involvement and Education Plan. She mentioned concerns about how the plan was written in the first draft and stated it needed to be written in a manner more consistent with the other plans. Ms. Giordano state that there are parts of the plan that need to be put in more detail.

She went on to say that for the next round of public meetings, APES should utilize the electronic mail system at North Carolina State University (NCSU) to better inform interested parties about the meetings and perhaps generate better attendance.

In another discussion, Mr. Waite stated that the public wanted to make sure that their interests were adequately represented on the implementation council. The public stated that the council members were mostly appointees of the Governor and they wanted some members who were legislative appointees.

Dr. John Costlow, PC member, stated that an attempt to have another Citizens' Advisory Committee, in addition to the ones we have would definitely cause unnecessary problems.

It was stated that "oversight" will be needed because there will be other people needed to make the plan work. Also, this might be the best way to achieve development of the plan.

Sybil Basnight, ACAC member, stated that the Implementation Committee does not have regulatory authority. She recited the purpose of the CAC and said that the Governor states how things will be done. Citizens should sit on the Citizens' Advisory Committees and the commissions concerning environmental management, marine fisheries, and coastal resources, not on the council.

Chairman Carter stated that the people who make decision on this matter no longer will be associated with this due to the changes that the upcoming election will bring. "There will be a whole new set of people and ideas to whom we will have to speak concerning this five year study," he said.

Mr. Waite mentioned that there was a discussion with the CRC in Wilmington last month and that a specific in-depth briefing would be held with them in November prior to the PC meeting. All members of the CRC now have a copy of the draft CCMP, and all members of the others commissions will be sent a copy.

#### Adjourn

Chairman Carter adjourned the meeting at 12:00 p.m. The next Joint CAC meeting will be held on December 8, 1992 at the Washington Regional Office of the North Carolina Department of Environment Health and Natural Resources beginning at 7:00 p.m.\*

\*Please note this change of date.

SIGN IN

<u>NAME</u>	<u>ORGANIZATION</u>
✓ Harlene L. Dubanks	QPES
• Bill Piland	ACAC
• Randy Waite	APES
• <del>Dub Paul</del>	PCAC
→ Todd H. Guissom	Hampton Roads PDC
→ MIKE ORBOCH	OCAL/RECM
→ Patty Valentine Darby	U.S. Fish + Wildlife
→ Mike Water	USFWS - RALPH
• Pat Burns	PCAC
• K.P. Willis	ACAC
• Dan Firdano	HPES
• Margaret Scully	A.P.E.S.
• Yates M. Barber	ACAC
• Kristin Rowles	A.P.E.S.
• <del>Steve O'Sullivan</del>	ACAC
• Ralph Buchan	PCAC
• Guy Stefanski	A.P.E.S.
• <del>Wyley Bennett</del>	CMC
→ John D. Costlow	APES/PCO
→ George Detcher	Just. of Ecology - Natl. Acad. of Sciences
→ <del>John D. Costlow</del>	→ Albemarle CMC
John Costlow	

**AGENDA  
CITIZENS' ADVISORY COMMITTEE  
OCTOBER 10, 1992**

**ADMINISTRATIVE OFFICE CONFERENCE ROOM  
ADMINISTRATIVE BUILDING  
211 BUDLEIGH STREET  
MANTEO**

**10:00 WELCOME**

**10:10 CONSIDERATION OF MODIFICATIONS TO THE CCMP**

- Public Meeting Comments
- Committee Comments
- Proposed Changes
- Future Schedule

**12:00 ADJOURN TO FESTIVAL**

**DRAFT CITIZENS' ADVISORY COMMITTEES AGENDA**

**DECEMBER 8, 1992  
REGIONAL OFFICE CONFERENCE ROOM  
1424 CAROLINA AVENUE  
WASHINGTON, NORTH CAROLINA**

7:00 PM	WELCOME/APPROVAL OF MINUTES/ CHANGES TO AGENDA	Brewster Brown/ Derb Carter
7:05	PROGRAM REPORT	Randall Waite
7:15	CHANGES TO CCMP	Randall Waite
7:30	DISCUSSION OF CCMP: HUMAN ENVIRONMENT	Meg Scully
7:45	CCMP DISCUSSION: VITAL AREAS	Meg Scully
8:00	CCMP DISCUSSION: WATER QUALITY	Guy Stefanski
8:30	CCMP DISCUSSION: FISHERIES	Kristin Rowles
8:45	CCMP DISCUSSION: PUBLIC EDUCATION	Joan Giordano
9:00	CCMP DISCUSSION: OTHER SECTIONS	Randall Waite
9:15	VOTE ON CCMP RECOMMENDATION	Brewster Brown/ Derb Carter
9:45	NEW BUSINESS/PUBLIC COMMENT	Brewster Brown/ Derb Carter
10:00	ADJOURN	Brewster Brown/ Derb Carter







COASTAL ZONE  
MANAGEMENT

# *The Commonwealth of Massachusetts*

*Executive Office of Environmental Affairs*

*100 Cambridge Street*

*Boston, Massachusetts 02202*

## **ACTION ALERT**

**To:** NEP Directors, and Management Committee and Citizen Advisory Committee Chairs  
**From:** Jeffrey Benoit, Chair, Mass Bays Program Management Committee/Director, CZM  
**Date:** December 1, 1992  
**Re:** NEP Budget Cuts

In case you have not yet heard, EPA is considering cutting the National Estuary Program 1992 budgets by 30% across the board!

**This is an IMMEDIATE CALL FOR ACTION to mobilize a letter-writing response in support of FULL FUNDING OF THE NATIONAL ESTUARY PROGRAMS!**

If this rumor becomes reality, it could spell disaster for many of our estuary programs. It would substantially weaken, if not destroy:

- \* The progress coastal states have made in creating an identity for the nation's estuaries,
- \* The strides coastal states have made in building cooperative working relationships around shared resources,
- \* The interchange of information and ideas among agencies at all levels of government, and between government and citizens,
- \* The ability to fund critical research, educate and involve the public, demonstrate effective pollution prevention and remediation projects, and implement our action agendas.

The outreach, planning, and research elements of the states' programs have begun to harness a desire within the many residents of the nation's watersheds to take action where needed, and to address environmental issues head-on. EPA should not be cutting NEP budgets, but should be expanding them all to allow for implementation of these plans.

The National Estuary Programs are just beginning to taste success as the two oldest programs begin implementing their CCMP's. Slashing NEP budgets after years of research, planning, and coalition building is unconscionable.

## **TAKE ACTION NOW**

- 1) Mobilize your Citizens Advisory Committees in protest of this threat.
- 2) Write ASAP with your support of NEP's to:  
 William K. Reilly with copies to:  
 Marian Mlay, EPA/NEP and Bob Wayland, EPA/OWOW
- 3) Write ASAP to your representatives in Congress.

Act now in full force in order to maintain full-funding of the NEP's.



Proposal

Economic Characterization of the Albemarle-Pamlico Estuarine  
Study Comprehensive Conservation Management Plan

Steve Smutko and Vernon Cox

Objectives

- 1) Perform a characterization of the APES conservation management plan,
- 2) Locate and evaluate relevant economic studies, data, and methodologies that could be used to determine the economic consequences of the management plan, and
- 3) Prioritize economic studies for the plan.

Procedures

Two full-time researchers will be hired for a period of six months to work on the objectives outlined above. They will be supervised and assisted by Steve Smutko and Vernon Cox for about 5-10 hours per week each.

The project team will work jointly with APES personnel to review the management plan and develop a framework to identify and evaluate economic considerations of the management plan. The team will consider each objective in the plan from Table 1 in the Executive Summary. The framework will include a description of market and nonmarket costs and benefits, private and government costs, and policy instruments.

The project will collect all known economic studies carried out in the APES region over the last 12 years. This will include published research and personal contact with individuals at local Universities who are likely to have conducted research in relevant areas. In addition, a review of economic methodologies that may be appropriate for evaluating components of the management plan will be conducted. Finally, data sources including soil erosion, pesticide use, nitrogen use, and others to be determined during pre-contract negotiations will be cataloged and evaluated.

The final objective of the project is to utilize the information from objectives 1 and 2 to prioritize, in consultation with APES personnel, needed economic studies. Priorities will be based on perceived need for answers and the difficulty and cost of completing research. Work will be reviewed by University researchers experienced in the area of natural resource economics.

A final report will be submitted within 6 months after award of the contract. The project team will assist APES staff in writing the APES project report which is due at the end of February.



Summary on the legal analysis of the alternatives available for  
requiring land, water resource and water use planning in A/P counties

December 7, 1992

The CCMP of the A/P Study recommends the development of legislation which would require land use, water resource and water use plans in all localities throughout the entire A/P region. A legal examination of the alternatives available to accomplish this objective is currently being completed. The following is a summary of the alternatives which are being examined:

**1st option: A heightening of the planning requirements already in CAMA to include the criteria recommended in the CCMP.**

CAMA is the only N.C. law which has specific environmental planning requirements for an area of the state comparable in size to the A/P region. In addition, the counties covered in CAMA comprise almost half of the counties in the A/P region. However, the extent of planning required for the coastal counties falls short of the recommendations in the CCMP. Therefore, one option would be to heighten the planning requirements in CAMA to reflect the recommendations of the CCMP.

Although only twenty of the A/P counties would initially be affected if this option was utilized, it would require a modest amount of effort and would provide a limited testing ground for experimental purposes. To achieve the objectives set forth in the CCMP, two changes in CAMA will be necessary.

First, a mechanism must be put into place which will require local governments to actually implement county and municipal plans. Currently, CAMA requires coastal counties to prepare local plans setting forth goals which are consistent with management and environmental protection purposes of CAMA. However, CAMA does not require ordinances which are necessary to actually implement the local plans. A model for such a mechanism can be found in the Water Supply Watershed Protection program currently under the supervision of the N.C. Environmental Management Commission. An amendment to CAMA is necessary to produce this type of mandate.

Second, the State Guidelines must be altered to reflect the recommendations in the CCMP. Only then will local governments be required to implement heightened requirements into their local plans. To alter the State Guidelines, either CAMA could be amended to direct CRC to implement the APES guidelines into the State Guidelines, or the CRC could adopt this change when the State Guideline is reviewed in 1994.

**2nd option: An expansion of CAMA westward to include the A/P counties**

Because the planning goals in the CCMP are much like the ones required through CAMA, an extension of CAMA westward to cover remaining A/P counties would, at the very least, provide for basic CAMA water and land use planning to be required in A/P counties which are not currently covered by the Act.

There is a potential legal conflict rooted in the state constitution which forbids the General Assembly from enacting legislation which unfairly singles out localities for special treatment. CAMA, as defined by its current western boundaries, has already met this constitutional challenge. In 1978, the N.C. Supreme Court determined that the distinction between the coastal counties covered in the Act and other counties of the state did not violate the constitution because the western boundary determination passed the rational test set forth by the Court.

An expansion of the boundaries will likely meet the same challenge, but there are several sound arguments concluding that an expanded CAMA will be determined constitutional. The legislative findings of CAMA must be amended to reflect an awareness that, in order to protect the coastal area of the state, additional protection of the entire drainage basin of the coastline is necessary. The westward expansion, however, cannot be limited to the A/P counties. It must include the entire drainage basin of each of the State's estuarine systems.

Two amendments to CAMA will be required: a legislative finding that the management of the entire drainage basin is necessary to protect the coastal sound, and an amendment to the definition of "coastal area" to include the entire drainage basin.

For political palatability and practicality, it would be helpful to also insert a clause preventing the applicability of AEC permitting requirements to the new localities, because the main objective of including the additional counties is to require certain types of planning, not more stringent permitting.

### 3rd option: A revival of the Land Policy Act

The Land Policy Act was created in 1974 and repealed, for all practical purposes, in 1981. The skeleton of the Act still exists, and can be revived.

The purpose of the Act was to create an environmental State land use policy. The Act established a Land Policy Council, which was comprised of various government officials, and an Advisory Committee, which consisted of a combination of citizens of the State and elected officials.

The Land Policy Act was handicapped in the beginning with no provisions for implementation. It was only able to serve in an advisory capacity, and thus became inactive after research on policy and management techniques was completed.

Thus, the alternative exists to revitalize the Land Policy Act, tailor it to achieve the APES recommendations, and establish either a new council, committee or both.

### 4th option: New legislation specifically tailored to the APES recommendations

A package of entirely new legislation can be written which would be tailored to specifically implement the recommendations put forth in the CCMP. The legislation could not be limited to the A/P counties because such a legislative class would be constitutionally invalid. The protected class would need to be the drainage basin of both of the state's estuarine systems.

The type of legislation which would probably be the least controversial would be an act which delegated the authority to set up and implement a planning program directly to the Secretary of the Department of Natural Resources. If public participation is deemed a crucial part of the program, a citizen's Council should be appointed.

\*\*\*. Additionally, the option of joining forces with the Committee appointed to analyze state-wide planning options should be considered.

A full legal analysis of the above will be completed shortly. Anyone with suggestions or questions should contact Melany Earnhardt through the APES office.

12-3-92

**(Continuation of "Responsible Parties for Recommended Management Actions" included in the 11-13-92 revision of the APES CCMP)**

**Water Quality Action Plan**

North Carolina General Assembly:

- I. Appropriate \$150,000 per year for five years to the N.C. Division of Environmental Management to support the research and development of expanded or refined water quality classifications. (See Water Quality Management Action A.)
- II. Appropriate \$50,000 per year for the next five years to the N.C. Division of Environmental Management to hire an additional staff member to implement an expanded water quality modeling program. (See Water Quality Management Action C.)
- III. In 1993, approve additional funding to support the N.C. Agricultural Cost-Share Program. Appropriate \$2.5 million in excess of the annual state allocation to the N.C. Division of Soil and Water Conservation to hire additional personnel and provide ample support for the implementation of Best Management Practices in the A/P watershed. (See Water Quality Management Action D.)
- IV. By 1994, approve legislation that would provide cost-share money to develop and implement new non-agricultural best management practices. Appropriate \$1 million per year to the N.C. Division of Soil and Water Conservation to implement the program for the A/P region. (See Water Quality Management Action E.)
- V. In 1993, appropriate \$100,000 per year for five years to the N.C. Division of Environmental Management and the N.C. Division of Environmental Health to provide funding for research and demonstration projects addressing the on-site wastewater treatment concerns within the A/P watershed. (See Water Quality Management Action F.)
- VI. By 1994, approve legislation requiring the implementation of a minimum undisturbed 20-foot vegetated buffer strips, or functional equivalent, along all perennial streams, rivers, and tidal water bodies in the A/P region. (See Water Quality Management Action G.)
- VII. By 1995, approve legislation requiring all inland counties within the A/P watershed to implement the current coastal state stormwater regulations. Appropriate \$250,000 per year to the N.C. Division of Environmental Management to hire five additional staff members to implement this program. (See Water Quality Management Action H.)
- VIII. Appropriate \$200,000 per year to the N.C. Division of Forest Resources to provide for increased technical and educational assistance in the A/P region. (See Water Quality Management Action I.)
- IX. Appropriate \$100,000 per year to increase staff within the N.C. Division of Environmental Management and the N.C. Division of Coastal Management to develop a state marinas policy and to promote boater education initiatives. Appropriate \$50,000 per year to a reimbursement program directed toward the installation of pump-out and dumping facilities at existing marinas. (See Water Quality Management Action J.)

- X. Appropriate \$200,000 per year to the N.C. Division of Environmental Management for additional staff members needed to implement the new nonpoint source pollution enforcement program. (See Water Quality Management Action K.)
- XI. Appropriate \$75,000 per year to the N.C. Division of Environmental Management to expand toxic sediment research efforts and site characterization parameters. (See Water Quality Management Action N.)

North Carolina Environmental Management Commission/Division of Environmental Management:

- I. Conduct further research to expand or refine water quality classifications and criteria to ensure adequate resource protection. (See Water Quality Management Action A.)
- II. Identify and reclassify as SA all non-SA waters approved for the harvest of shellfish and that have salinity regimes suitable for the propagation of oysters, hard clams, or scallops, so that the "best available use" of shellfish harvest can be protected. (See Water Quality Management Action A.)
- III. Improve coordination with the N.C. Division of Health Services Shellfish Sanitation Branch and the N.C. Division of Marine Fisheries, to improve the efficiency of water quality monitoring, data storage, and management initiatives. (See Water Quality Management Action A.)
- IV. Through the Technical Support Branch, expand water quality modeling efforts. (See Water Quality Management Action C.)
- V. Coordinate with the N.C. Division of Soil and Water Conservation to ensure the appropriate targeting of potentially increased cost-share monies to the rectification of the most pressing water quality concerns. (See Water Quality Management Action D.)
- VI. Require municipal wastewater treatment facilities to accept septage pumped from domestic systems and, if appropriate, marine sanitation device pump-out facilities. (See Water Quality Management Action F.)
- VII. Conduct and help to fund continued research on the environmental impacts of septic tank discharge. (See Water Quality Management Action F.)
- VIII. Along with the N.C. Wildlife Resources Commission, U.S. Fish and Wildlife Service, and U.S. Soil Conservation Service, form a taskforce to help develop specifics for minimum undisturbed 20-foot vegetated buffer strips, or functional equivalent, to be maintained along all inland waters. (See Water Quality Management Action G.)
- IX. Incorporate the concept of vegetated buffer strips in the planning requirements of the Coastal Stormwater Program. (See Water Quality Management Action G.)
- X. Implement the new program requiring all counties within the A/P watershed to adopt the current coastal state stormwater regulations. The Stormwater Control Program should dedicate more staff toward education and technical assistance to ensure understanding and compliance with these regulations. (See Water Quality Management Action H.)
- XI. Serve as the lead agency within the N.C. Department of Environment, Health, and Natural Resources in developing a state marina policy. Work closely with the N.C. Division of Coastal Management in this process to coordinate better management policies for marinas.



(See Water Quality Management Action J.)

- XII. For existing marinas, establish a reimbursement program to facilitate the installment of adequate pump-out and dumping facilities. For new marinas, require the installation of adequate pump-out and dumping facilities in conjunction with adequate wastewater treatment and disposal capacity. (See Water Quality Management Action J.)
- XIII. Implement the new nonpoint source pollution enforcement program. (See Water Quality Management Action K.)
- XIV. Continue to pursue reduced levels of allocation to the remaining assimilative capacity of receiving waters. Vigorously pursue and utilize economically feasible technology to improve secondary treatment. (See Water Quality Management Action L.)
- XV. Through the N.C. Division of Environmental Management's Pre-treatment Program, promote and encourage increased cooperation among dischargers, state regulatory agencies, and the N.C. Office of Waste Reduction's Pollution Prevention Program to help reduce end-of-pipe concentrations of pollutants. (See Water Quality Management Action M.)
- XVI. Expand efforts of sediment research to better document areas of toxic concern and to identify appropriate indicators of sediment and estuarine health. (See Water Quality Management Action N.)
- XVII. Assess the need for additional staff members necessary for improved program performance within the N.C. Department of Environment, Health, and Natural Resources. (See Water Quality Management Action O.)

North Carolina Division of Environmental Health:

- I. With the N.C. Division of Health Services Shellfish Sanitation Branch, work to improve coordination with the N.C. Division of Environmental Management and the N.C. Division of Marine Fisheries to improve the efficiency of water quality monitoring, data storage, and management initiatives. (See Water Quality Management Action A.)
- II. As proposed in House Bill 1038, require a small fee on the installation of each new septic tank to help fund inspection and enforcement programs. (See Water Quality Management Action F.)
- III. Provide more training and funding for local sanitarians to monitor and manage septic systems more effectively. Provide more stringent oversight of local enforcement to failing or non-compliant systems. (See Water Quality Management Action F.)
- IV. Provide state cost-share monies to help homeowners repair or up-grade dysfunctional or otherwise non-compliant septic systems and to install proven alternative systems on present lots. (See Water Quality Management Action F.)
- V. Conduct and help to fund continued research on the environmental impacts of septic tank discharge. (See Water Quality Management Action F.)
- VI. Support the development of a state marina policy in conjunction with the N.C. Division of Environmental Management and the N.C. Division of Coastal Management. (See Water Quality Management Action J.)

Coastal Resources Commission/Division of Coastal Management:

- I. Through the N.C. Coastal Area Management Act (CAMA), establish requirements for the maintenance of a minimum undisturbed 20-foot vegetated buffer strips adjacent to all Public Trust Waters and adjacent to the shoreline in all designated Estuarine Shoreline Areas of Environmental Concern. (See Water Quality Management Action G.)
- II. Work closely with the N.C. Division of Environmental Management to develop a state marina policy. (See Water Quality Management Action J.)
- III. Expand efforts to educate boaters about marine sanitation devices (MSDs), pump-out facilities, and proper management of boat sewage. Encourage marinas, community piers, and private yacht clubs to adopt policies which prohibit overboard discharge where boats are docked or moored. (See Water Quality Management Action J.)
- IV. Support the establishment of standards for pump-out fittings and adapters to encourage boaters to utilize pump-out facilities. (See Water Quality Management Action J.)
- V. In the state marinas policy, consider establishing and enforcing No Discharge Zones in which discharges from marine toilets are prohibited. (See Water Quality Management Action J.)
- VI. Encourage marinas to incorporate pump-out costs in annual, seasonal, and overnight slip rental fees rather than on a per-use basis to remove financial disincentives for use. (See Water Quality Management Action J.)

North Carolina Soil and Water Conservation Commission/Division of Soil and Water Conservation:

- I. Incorporate the concept of integrated pest management and other environmentally sensitive practices and management measures that reduce inputs of nutrients and toxicants into the N.C. Agricultural Cost-Share Program. (See Water Quality Management Action D.)
- II. Coordinate efforts with the N.C. Division of Environmental Management to ensure the appropriate targeting of cost-share monies to the rectification of the most pressing water quality concerns. (See Water Quality Management Action D.)
- III. Seek increased funding from the N.C. General Assembly to provide for additional personnel and ample support for the N.C. Agricultural Cost-Share Program. (See Water Quality Management Action D.)
- IV. Implement the new non-agricultural best management practices program to help minimize the environmental impact from other nonpoint sources of pollution. (See Water Quality Management Action E.)

North Carolina Marine Fisheries Commission/Division of Marine Fisheries:

- I. In cooperation with the N.C. Division of Environmental Management, conduct studies to define and designate several new supplemental water use classifications and associated water quality criteria. (See Water Quality Management Action A.)
- II. Improve coordination among the N.C. Division of Environmental Management and N.C. Division of Health Services Shellfish Sanitation Branch to improve efficiency of water quality monitoring, data storage, and management initiatives. (See Water Quality Management

Action A.)

North Carolina Division of Forest Resources:

- I. Continue to improve education and outreach programs designed to reach the small landowner and small logging operators. (See Water Quality Management Action I.)
- II. Assess the need for additional personnel that may be necessary for improved program performance. (See Water Quality Management Action O.)

North Carolina Wildlife Resources Commission:

- I. In conjunction with the N.C. Division of Environmental Management, U.S. Fish and Wildlife Service, and U.S. Soil Conservation Service, form a taskforce to help develop specific regulations for minimum undisturbed 20-foot vegetated buffer strips to be maintained along all inland waters. (See Water Quality Management Action G.)

North Carolina Sedimentation Control Commission/Division of Land Resources:

- I. Incorporate the concept of vegetated buffer strips in long-term management plans as part of agency planning requirements. (See Water Quality Management Action G.)
- II. Assess the need for additional personnel that may be necessary for improved program performance within the N.C. Sedimentation and Erosion Control Program and the N.C. Mining Program. (See Water Quality Management Action O.)

North Carolina Division of Office of Waste Reduction:

- I. Through the Pollution Prevention Program, promote increased cooperation among the N.C. Division of Environmental Management's Pre-treatment Program, dischargers, and other state regulatory agencies to help reduce end-of-pipe concentrations of pollutants. (See Water Quality Management Action M.)

North Carolina Division of Solid Waste Management:

- I. In areas of identified sediment toxicity, the Superfund Program should evaluate the site for the feasibility of remediation and placement on the National Priority List. (See Water Quality Management Action N.)

North Carolina Cooperative Extension Service:

- I. Help to fund specific investigations and demonstration projects necessary to reveal more about the impact of septic tank discharge on the environment. (See Water Quality Management Action F.)
- II. Through the N.C. Forestry Cooperative Extension Service, continue to improve education and outreach programs to enhance the educational goals of the forest industry, with particular emphasis on reaching the small land owners and small logging operators. (See Water Quality

Management Action I.)

National Marine Fisheries Service:

- I. Demonstrate strong cooperation and involvement with the N.C. Division of Environmental Management in researching and developing expanded or refined water quality classifications and criteria. (See Water Quality Management Action A.)

U.S. Fish and Wildlife Service:

- I. Along with the N.C. Division of Environmental Management, N.C. Wildlife Resources Commission, and U.S. Soil Conservation Service, form a taskforce to help develop specific regulations for minimum disturbed 20-foot vegetated buffer strips to be maintained along all inland waters. (See Water Quality Management Action G.)

U.S. Soil Conservation Service:

- I. Along with the N.C. Division of Environmental Management, N.C. Wildlife Resources Commission, and U.S. Fish and Wildlife Service, form a taskforce to help develop specific regulations for minimum disturbed 20-foot vegetated buffer strips to be maintained along all inland waters. (See Water Quality Management Action G.)

U.S. Army Corp of Engineers:

- I. In conjunction with the N.C. Division of Solid Waste Management's Superfund Program, determine the feasibility of remediation of toxic sediment sites. (See Water Quality Management Action N.)

U.S. Geological Survey:

- I. Help to fund specific investigations and demonstration projects necessary to reveal more about the impact of septic tank discharge on the environment. (See Water Quality Management Action F.)

U.S. Coast Guard:

- I. Support efforts by the N.C. Division of Coastal Management in educating boaters about proper management of boat sewage. (See Water Quality Management Action J.)

North Carolina Forestry Association:

- I. Continue to improve education and outreach programs to enhance the educational goals of the forest industry, with particular emphasis on reaching the small land owners and small logging operators. (See Water Quality Management Action I.)

Local Governments:

- I. Consider minimum lot size requirements for septic tank installation to minimize water quality concerns, especially where there is both on-site water supply and on-site wastewater disposal. (See Water Quality Management Action F.)
- II. In association with the N.C. Division of Environmental Health, utilize state cost-share monies to help homeowners repair or up-grade dysfunctional or otherwise non-compliant septic systems and to install proven alternative systems on present lots. (See Water Quality Management Action F.)

